



1 (PROCEEDINGS)

2 THE COURT: Have a seat. Mr. Cunningham, would you  
3 like to call the case for me, please?

4 MR. CUNNINGHAM: Calling the case of United States  
5 versus Yvonne Taylor, Criminal Docket Number GLR 13-0080.  
6 Michael Cunningham for the United States. With me at counsel  
7 table is Special Agent Mary Horn. The matter's in for a  
8 sentencing proceeding this morning.

9 MR. TREEM: Good morning. Joshua Treem representing  
10 Miss Taylor, who is seated to my left, along with Emily  
11 Levenson and Lance Hamm.

12 MR. HAMM: Good morning.

13 MS. LEVENSON: Good morning.

14 MR. TREEM: We're prepared to proceed.

15 THE COURT: Okay. Mr. Treem, Ms. Levenson, Mr. Hamm,  
16 always a pleasure in this case.

17 All right. Counsel, we are ready to proceed with a  
18 sentencing in this case on February 25th, 2013. The defendant  
19 appeared in court for an arraignment, at the conclusion of the  
20 proceedings was found guilty of Count 1 of the information.

21 Upon the finding of guilt, the Court ordered that a  
22 presentence report be prepared, and the sentencing is set for  
23 today in this matter.

24 We are ready to proceed. Let me ask Miss Taylor,  
25 have you and your attorneys been able to carefully review and

1 discuss the presentence report in this case?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: And approximately how long or how many  
4 times have you reviewed the presentence report?

5 THE DEFENDANT: Maybe about five times.

6 THE COURT: And do you have any questions at all or  
7 concerns at all about the presentence report that your counsel  
8 has not addressed with me?

9 THE DEFENDANT: No, sir.

10 THE COURT: Okay. Now, I know that there were a  
11 number of requests that were indicated in the presentence  
12 report, requests for changes in the presentence report in this  
13 matter.

14 However, the guidelines calculation, I believe  
15 there's no dispute about. There is a base guideline offense  
16 level of 14, adjustment for acceptance of responsibility  
17 reduces that to 12. Because of the lack of criminal history of  
18 Miss Taylor, it is Category I, which would leave her range,  
19 guideline range, of 10 to 16 months, with a maximum term of  
20 supervised release of three years and a maximum term of  
21 probation of five years, and a fine of \$250,000 with a  
22 guideline range of between 3,000 and 30,000.

23 Mr. Treem, have I accurately summarized the guideline  
24 calculations in this case?

25 MR. TREEM: Yes, Your Honor.

1           THE COURT: Now, do you understand that there is a  
2 request for probation in this matter. The government is  
3 seeking five years, imposition of five years of probation. And  
4 of course, Mr. Treem, you're seeking imposition of three years  
5 probation with an expansion of Miss Taylor's ability to travel  
6 in the Washington, D.C., Maryland and Virginia metropolitan  
7 region.

8           Is that correct?

9           MR. TREEM: That's correct, Your Honor, yes.

10          THE COURT: Okay. Very good. I will also  
11 acknowledge that I have received and reviewed several letters,  
12 one from Miss Taylor herself, as well as from a Miss Ione  
13 Evans, a Patricia Holder, and a Miss Andrea King Chang.

14          MR. TREEM: Your Honor, just for the record, they are  
15 present in the courtroom, and if the Court has any questions  
16 you may wish to address to them, they are certainly prepared to  
17 respond.

18          THE COURT: Okay. Very good. I least wanted to be  
19 sure I went on the record to let you know I did receive their  
20 letters, and I read them over very carefully yesterday in this  
21 case.

22          Now, there were some representations regarding the  
23 factual accuracy of the presentence report that were noted by  
24 Mr. Treem in this case. The first I will address in order,  
25 custodial status. It was an indication that Miss Taylor's

1 initial appearance in the District of Maryland on June 10 of  
2 2011. She was placed under the supervision of Pretrial  
3 Services Officer Marcus Crenshaw.

4 Is there any objection to the response to 1 A, Mr.  
5 Treem?

6 MR. TREEM: No, Your Honor.

7 THE COURT: All right. Very well. The response with  
8 the correction will be accepted.

9 Is there any objection to the response to paragraph  
10 -- which you were requesting paragraph 27, other --

11 MR. TREEM: Excuse me, Your Honor. Perhaps I  
12 misspoke.

13 We don't have any objection to the custodial status  
14 issue. But with respect -- there is a notation on page 1 A  
15 about -- the objection about probation being an option.

16 THE COURT: Right.

17 MR. TREEM: And we do object to the extent that the  
18 presentence report says probation is not an option. It is a  
19 statutorily mandated option for the Court. It may not be an  
20 option under the advisory guidelines.

21 THE COURT: Right.

22 MR. TREEM: But it is an option by statute.

23 THE COURT: Understood. In other words, it's not an  
24 option, you do agree that it's not an option under the advisory  
25 guideline scheme as agreed to by the parties, but both sides

1 are seeking that this Court vary in its sentence from the  
2 guidelines to allow for the imposition of a probationary  
3 sentence.

4 MR. TREEM: That's correct, Your Honor.

5 THE COURT: Perfect.

6 I will ask that the report just be corrected to  
7 reflect that there is no dispute that probation is not an  
8 option under the advisory guidelines, but there is a  
9 possibility of a probationary sentence by statute.

10 Do you agree paragraph 42 there's no need to change,  
11 in paragraph 47, there's no need to change.

12 MR. TREEM: Correct, Your Honor.

13 THE COURT: Correct. And you do agree that the  
14 paragraph has been amended, paragraph 53 has been amended to  
15 correct the typographical error.

16 Is that right?

17 MR. TREEM: Yes, sir.

18 THE COURT: And then finally, you do agree that the  
19 information requested in paragraph 56 has been added?

20 MR. TREEM: Yes, Your Honor.

21 THE COURT: All right. Very well. So we have  
22 resolved the factual disputes as well as the legal disputes in  
23 this case.

24 Is that correct, Mr. Treem?

25 MR. TREEM: Yes, Your Honor.

1           THE COURT: All right. As I indicated, the defense  
2 is not seeking a departure, but the defense is simply seeking a  
3 variance.

4           Is that correct, Mr. Treem?

5           MR. TREEM: Yes, Your Honor. Well, yes, I guess  
6 that's the end result of we're asking for, yeah, a variance  
7 below the guidelines and a sentence of probation, yes, sir.

8           THE COURT: Understood. So as a result, I am not  
9 going to -- the defense is not seeking a departure, the defense  
10 is going to be seeking a variance.

11          MR. TREEM: That's correct, Your Honor.

12          THE COURT: All right. Noted.

13          There's no need at this point in time to -- or is  
14 there a need pursuant to the regular course of business to seal  
15 this portion of the proceeding?

16          MR. CUNNINGHAM: The government does not believe so,  
17 Your Honor.

18          THE COURT: All right. Noted.

19          Now, let me ask, I'll now call upon the government to  
20 make a statement if you'd like, Mr. Cunningham.

21          MR. CUNNINGHAM: Your Honor, I think I can be very  
22 brief. Hopefully, Mr. Shea's sentencing memorandum responded  
23 to any questions the Court would have, and that is the position  
24 the government takes as has been articulated already this  
25 morning with regard to the position on probation as well as the

1 previous discussion of it at the time of the plea, that the  
2 plea was entered.

3 There is one additional thing that I would ask the  
4 Court to make a record of, you had signed a preliminary, or an  
5 order of forfeiture before, which I would ask you to  
6 incorporate orally in your sentence that you impose in this  
7 case.

8 THE COURT: There's no objection to that, Mr. Treem,  
9 is there?

10 MR. TREEM: Not at all, Your Honor.

11 THE COURT: All right. The order of forfeiture of  
12 the monies that were seized from Miss Taylor will be  
13 incorporated into whatever sentence that I impose.

14 MR. CUNNINGHAM: Your Honor, unless you have any  
15 specific questions, you want me to respond to regarding the  
16 government's sentencing memorandum, we'll submit on that.

17 THE COURT: I don't. I don't. Thank you.

18 MR. CUNNINGHAM: Thank you, Your Honor.

19 THE COURT: Mr. Treem, I'll hear from you.

20 MR. TREEM: Thank you, Your Honor. Well, under the  
21 principle, Your Honor, of not wanting to say too much and its  
22 corollary of knowing when to stop --

23 THE COURT: Why don't I impose of period of probation  
24 of five years. I mean, you're asking for three years.

25 MR. TREEM: Right. Well, the first question -- do I

1 have to convince you about the probation? If the answer's no,  
2 I'll go to three versus five.

3 THE COURT: Why don't you talk to me about the  
4 probation?

5 MR. TREEM: Okay. Fair enough, Your Honor. Okay.  
6 Okay.

7 THE COURT: Because the recommendation of the  
8 five-month split by pretrial is not out of the realm of  
9 reasonableness, either.

10 MR. TREEM: That's certainly fair, Your Honor, and I  
11 have some responses to that. So let me start.

12 So why is probation the appropriate sentence here?

13 It's appropriate because of who Miss Taylor is. This  
14 is a 55-year old working woman, a single mom, who raised three  
15 children virtually on her own, who's had two marriages, the  
16 most recent one an abusive marriage that she has put behind  
17 herself.

18 This is a woman who emigrated from Jamaica at the age  
19 of 24, studied to become a nurse, became a nurse, practiced as  
20 a nurse for a number of years, became a United States citizen,  
21 fulfilling all the requirements that Your Honor requires.

22 She has, as the presentence report reflects, owned  
23 her own home, which she has managed to do by herself,  
24 essentially.

25 She has worked continuously in her chosen profession,

1       which the letters that have been sent to you clearly reflect is  
2       her passion.

3               She has done that even during the term of these  
4       proceedings, which stretch out slightly over two years, since  
5       the incident.

6               And all of this, Your Honor, kind of reflects her  
7       spirit and her determination, her responsibility. She has not  
8       let these events, here today and her own mistakes that she has  
9       made, beat her down.

10              She will tell you in her allocution, that she has  
11      continued with her life attempting to continue as a nurse,  
12      continue her education toward getting a college degree,  
13      continue with her licensing and continue with her practice.

14              She has a job opportunity in the District of Columbia  
15      she will tell you about.

16              And the point of all this is that Miss Taylor's  
17      looking to the future, that these events, as consequential as  
18      they may well turn out to be in terms of her profession, have  
19      not beaten her up. And I think that spirit speaks a lots about  
20      who she is and what she is about and why probation as opposed  
21      to jail is an appropriate sentence in this case.

22              THE COURT: Why did she -- maybe she can address it,  
23      address this, but one of the questions I have is why did she  
24      travel with a hundred, over a hundred thousand dollars of bulk  
25      cash? How can the Court be assured that she has been

1 adequately deterred from engaging in that behavior again?

2 MR. TREEM: Well, okay. Well, I'll jump ahead. I am  
3 going to get to that.

4 THE COURT: Okay. Okay. All right.

5 MR. TREEM: That's at the tail end of this.

6 THE COURT: All right.

7 MR. TREEM: So this is I think a woman who comes to  
8 court, as is recognized by everybody, with not only a clean  
9 record, but with the government's recommendation of probation,  
10 which I think has to weigh very heavily on the Court.

11 Because it is especially with this kind of offense,  
12 which is an omission of a duty to file a form created by the  
13 government for government purposes in some I guess theoretical  
14 -- well, not even theoretical, in all respects, the government  
15 is the victim here. There is no other victim. It's the  
16 government that wanted the information that wasn't provided,  
17 and the government has decided that for this Class D felony, in  
18 these circumstances, knowing who Miss Taylor is, and they  
19 certainly know all about her, she does not warrant, and her  
20 conduct does not warrant a term of imprisonment.

21 THE COURT: I'll give that heavy weight and  
22 consideration.

23 MR. TREEM: Probation's appropriate, Your Honor,  
24 because of Miss Taylor's health considerations. They are  
25 detailed in the presentence report. We provided documentation

1 to the probation officer. It is significant. It's not one,  
2 any one thing in particular that outweighs any other, but it's  
3 this galaxy of conditions, if you will, that we are concerned  
4 that a prison term of any length, and one even as short as five  
5 months, actually kind of puts Miss Taylor in, kind of a  
6 potential black hole, if you will.

7 It's short -- any incarceration's going to increase  
8 her stress level, which has already reached the point where  
9 even the probation officer has recognized that counseling,  
10 mental health counseling, is going to be part of any  
11 probationary or any supervisory release program, and Miss  
12 Taylor herself recognizes that the stress and strain that she  
13 has been under, that she needs help, and she acknowledges that.

14 And I think would welcome whatever program can be  
15 established would provide that.

16 The problem is, it's not going to happen any time --  
17 a therapeutic program is not going to be able to instituted in  
18 the five months that kind of split sentence that the guidelines  
19 seem to talk about. The guidelines don't deal with this issue,  
20 and that's one reason, perhaps, why the guidelines ought to be  
21 not followed in this case.

22 But -- and I say this more from experience than from  
23 literature, the Bureau of Prisons, if nothing else, especially  
24 with health considerations, move slowly, because they have --  
25 and the Court I'm sure is aware of this, they have their own

1 protocol. They have their own formulary of drugs, and it takes  
2 time to coordinate the treatment course that Miss Taylor might  
3 have been under on presentence release on her own with whatever  
4 might be available at the facility to which she is designated.

5 And my fear is, and I think it's a legitimate fear,  
6 that just the passage of time, she won't be getting the  
7 treatment, she will be in jail, which will heighten her stress,  
8 which will trigger potentially additional consequences, none of  
9 which should befall her.

10 Everything else aside, that should not happen. And  
11 so I think her health is in fact a very significant factor to  
12 be considered here and another reason why probation is  
13 appropriate.

14 Probation's appropriate because of the nature of the  
15 offense. We touched on this just a moment ago, but it is a  
16 Class D felony. And it is -- not to diminish its importance,  
17 because it is an important statute, and should be followed, and  
18 Congress certainly has decided that it must be followed, it is  
19 a crime of omission.

20 And so, in response to Your Honor's question a moment  
21 ago how do we make sure that it doesn't happen again, well, by  
22 it not happening again, I mean, there's no -- for instance,  
23 there's no order that you can sign other than follow the law  
24 that can deter this.

25 I suspect, although I don't know, I suspect that Miss

1 Taylor's name is on a watch list now. ICE has it, Homeland  
2 Security has it. If she's traveling overseas, the government's  
3 going to know about it. If she's the traveling anywhere, the  
4 government -- by air, certainly, the government's going to know  
5 about it.

6 And so there's nothing that I can -- I don't think  
7 there's anything that you can impose on her, through a  
8 probation or even supervisory release status or anything else  
9 that's going to prevent it from happening if she wanted to do  
10 it.

11 THE COURT: What if I took her passport and  
12 prohibited her from traveling out of the country for the  
13 probationary period of time?

14 MR. TREEM: Well, you certainly do that, Your Honor.  
15 For sure, you could.

16 THE COURT: That would prevent her from -- that would  
17 put constraints upon her from trying to bring out,  
18 intentionally trying to bring out money again.

19 MR. TREEM: Well, it works, Your Honor, but I harken  
20 back to the one example that we have of her travel out of the  
21 country during the pendency of this case.

22 You'll remember Miss Taylor had requested return of  
23 her passport so she could travel to Jamaica to visit her  
24 mother, who's not well.

25 THE COURT: Because she thought she may not see her

1 again.

2 MR. TREEM: That's right. And that certainly remains  
3 the case. And would certainly remain the case if she were in  
4 jail, if something were to happen, she would not have that  
5 opportunity.

6 And Miss Taylor demonstrated an ability to abide by  
7 the Court's orders. She changed her itinerary so she would not  
8 travel to Florida to meet her friend. That was done. She got  
9 her passport. She returned her passport.

10 Certainly with the opportunity to apply for return of  
11 the passport, the specific travel perhaps to Jamaica to visit  
12 her mother, I don't have -- we can't object to the Court's  
13 comment about taking her passport for the duration of the term  
14 of supervision, if you will. And we certainly would agree with  
15 that.

16 But we would certainly ask for the opportunity to  
17 apply on either a case by case or as needed basis for the  
18 return of the passport, for, again, with the conditions that  
19 occurred before, which Miss Taylor provided some details of the  
20 travel, how long she'll be staying, when she'll be coming back,  
21 that is -- that's certainly appropriate, Your Honor, under  
22 these circumstances.

23 THE COURT: Uh-huh.

24 MR. TREEM: But I'd just like to point out that with  
25 respect to the guidelines, this is a crime regardless of the

1 amount that's taken out of the country if it exceeds \$10,000.

2 It's the same crime if it's \$10,001 as it is for \$102,000.

3 And so the point is that, to the extent that the case  
4 -- or the Court or the government wishes to prosecute the case,  
5 the amount of the money that's driving the guidelines really  
6 has very little to do with the crime here because the crime is  
7 I didn't fill out the form.

8 And as I said, it doesn't matter what the amount is.  
9 And the seriousness of the crime really shouldn't depend on the  
10 amount of the money taken out.

11 And so what I would suggest to Your Honor is that the  
12 guidelines, to the extent they establish these very arbitrary  
13 divisions really, from an empirical basis, don't make any  
14 sense.

15 I mean, what's the difference between \$69,000 and  
16 \$71,000? It's \$2,000, but it's two levels. And what's the  
17 difference between \$71,000, I mean, if the -- you know, if the  
18 amount of money taken out makes a difference, really, \$71,000  
19 is the same as \$119,000?

20 And so, you know, we talk about the guidelines as  
21 establishing this 10 to 16 month level, but it really makes no  
22 sense. It's kind of capricious. It's arbitrary. It doesn't  
23 correspond to the crime being committed here, which is the  
24 failure to file the form.

25 THE COURT: I got you. You know, I certainly

1 appreciate that argument. Why don't you talk to me a little  
2 bit about a fine. Why shouldn't I impose a fine? Whose money  
3 was it?

4 MR. TREEM: Well --

5 THE COURT: I mean, she's got \$102,000, so where's  
6 the source of that? Why should I not impose a 50 or 60 or a  
7 hundred thousand dollars fine?

8 MR. TREEM: Because she doesn't have 50, 60 or --

9 THE COURT: Where'd she get the money?

10 MR. TREEM: I think that's a question I'm not  
11 prepared to answer. It's a question for another day, quite  
12 frankly.

13 THE COURT: I need to know, because I need to know  
14 whether or not if she's got resources that she receives a  
15 hundred thousand dollars from somewhere over a hundred thousand  
16 dollars in cash, then why shouldn't, I -- if I don't know the  
17 source of that income, why should I take her word for it that  
18 she doesn't have any money?

19 MR. TREEM: Well, okay, Your Honor. I think the  
20 short answer to that is nothing that we have produced to the  
21 government, to the presentence officer during the period of  
22 which the investigation, presentence investigation was going  
23 on, reflects that she has any money at all to pay a fine.

24 In fact, it reflects that Miss Taylor has been in  
25 bankruptcy on prior occasions.

1           So there is nothing in the record that we are aware  
2   of that establishes.

3           THE COURT: Other than?

4           MR. TREEM: A source.

5           THE COURT: Other than -- I didn't mean to cut you  
6   off, Mr. Treem, but you know what I mean. Neither one of us  
7   takes offense to it. But other than the fact that she had  
8   \$102,000, I mean.

9           MR. TREEM: Let's assume hypothetically, Your Honor.

10          THE COURT: She got it from somebody else.

11          MR. TREEM: She got it from somebody else. Let's  
12   just assume that for purposes of our discussion.

13          THE COURT: But it was a gift.

14          MR. TREEM: I don't know what it was, Your Honor.  
15   But the point is, two points. One is, you know, some of the  
16   releases that we sign allow the government to go get whatever  
17   information it feels it needs, and we produced financial  
18   information to the government, including bank account  
19   information that Miss Taylor has, and the government is  
20   certainly free to investigate all of that.

21                 And I guarantee you, if the government thought or the  
22   pretrial, probation officer thought she had sources of income  
23   that she could tap that either through real estate or financial  
24   sources, which she had an ownership interest that she could  
25   raise money to pay a fine, that would be in the report. It's

1 not.

2 So there is no basis, factual basis, I would submit,  
3 in which the Court can impose a fine under these circumstances.  
4 The record just doesn't reflect it.

5 THE COURT: I just want to make sure that during the  
6 course of my examination, you make an adequate record and the  
7 Court makes an adequate record regarding inability to pay a  
8 fine.

9 MR. TREEM: I appreciate that, Your Honor. And I  
10 think that's demonstrated in the record, in the presentence  
11 report, in the documents that we've provided to the probation  
12 officer, and I don't think there's any -- any factual basis to  
13 --

14 THE COURT: She does have equity in her home, though?

15 MR. TREEM: There is some equity in her home, yes,  
16 Your Honor but it's not a lot. And given the kind of tenuous  
17 nature of Miss Taylor's continuing ability to practice as a  
18 nurse, I will hope the Court does not impose a monetary penalty  
19 that's going to create more problems for her, because quite  
20 frankly, she could potential lose that house if her license is  
21 revoked or suspended and she's unable to work.

22 And that kind of brings me to the other point about  
23 Miss Taylor having been punished enough. The collateral  
24 consequences of the charge and now conviction are potentially  
25 daunting. She could lose her house. She could lose her

1 license to practice.

2 And on that note, just one aside. Miss Taylor, on  
3 her own, she wasn't legally required to do this, but on her  
4 own, reported the conviction, once Your Honor found her guilty  
5 of the crime after the plea, reported that conviction to the  
6 Maryland Nursing Board. Her license is not up for renewal.  
7 Under the terms of the license, you don't have to report  
8 convictions or other indiscretions, if you will, until your  
9 license is up for renewal. But she proactively put the board  
10 on notice that she has been convicted.

11 It's pending. We don't know, what, if anything's  
12 going to happen.

13 Additionally, she has looked for work in the District  
14 of Columbia and has an opportunity to work for a nursing home  
15 in the District of Columbia as a nurse.

16 She has applied for a nursing license in the District  
17 of Columbia and has told the Nursing Board of this conviction.  
18 They are reviewing it, as far as I know, and Miss Taylor will  
19 tell you more about that when she speaks to Your Honor.

20 But that kind of gets back to what the point I was  
21 making earlier about who this woman really is and her  
22 determination to do whatever she can to maintain her job and  
23 her income and work in the field, in which she is so  
24 passionate, but she's in danger of losing that.

25 She's in danger of losing her house. She's in danger

1 of being unable to complete the education that she's trying to  
2 get, to get a bachelors, if you will.

3 She's enrolled in an online Community College. Her  
4 opportunity to get student loans will be significantly  
5 diminished if not extinguished by this conviction.

6 She's determined to continue on, and I suspect that  
7 if the Court gives her that opportunity on probation, that she  
8 will find a way do that.

9 Obviously, if she's in jail, she won't be able to do  
10 that.

11 And I think, Your Honor, those kind of consequences  
12 and particularly the conviction, obviously, are going to  
13 continue with her for the rest of her life.

14 THE COURT: I mean, this is a woman who was a healer,  
15 and then just for whatever reason, whether or not it is being  
16 manipulated by others or for some purpose, has really almost  
17 thrown it all away.

18 MR. TREEM: Exactly, Your Honor. The letters I think  
19 touch on that, the letters that you have touch on that. The  
20 effect this has had on her, and the why question, will just  
21 remain a puzzlement. It is something that she will have to  
22 live with.

23 THE COURT: She knows.

24 MR. TREEM: She does, Your Honor. She's going to  
25 have to live with that. In fact, she has been living with it.

1 THE COURT: Right.

2 MR. TREEM: You know, the point is that jailing her  
3 now, I mean, she spent two years trying to continue to live  
4 with this hanging over her head.

5 And she is moving on. And she's got a future.

6 One of the objects of probation is not simply to  
7 punish, but it is to put people in a position to get back into  
8 society once they come out of jail. Miss Taylor's kind of done  
9 all of that already.

10 And so recognizing that probation and supervision  
11 always has some form of punitive nature to it, we're suggesting  
12 that three years is enough, because she doesn't need the  
13 training, the vocational training, the education.

14 She doesn't need the addict counseling that is often  
15 required for others on probationary sentences, or either under  
16 supervised release. She needs treatment. Mental health  
17 treatment.

18 The government has -- excuse me, probation has  
19 suggested two years.

20 If you take that two years and you add it to the ten  
21 months of supervision in jail that the guidelines seem to call  
22 for, then you're at 34 months. And we've rounded up to 36.

23 But there is some rationale to our number. I'd  
24 suggest there's really no rationale to the government's number,  
25 other than they want the maximum.

1           And I don't think that adds anything, it just becomes  
2 another burden for probation to continue Miss Taylor on a  
3 program where I submit she's not going to need it.

4           She has proven to this Court, with her conduct on  
5 pretrial release and in the travel to Jamaica that the Court I  
6 think legitimately was somewhat skeptical about, that you know  
7 if you give her an order, she'll be able to follow it.

8           And I think that's our guide post. That's our  
9 example. I think there's --

10           THE COURT: Have you been to Jamaica? I know it's  
11 probably very easy to get lost up in the mountains or in  
12 Kingston, or Mobay or Ochos Rios, and you can -- especially  
13 you've got family there, and you're free there, it's easy. You  
14 can easily get lost.

15           MR. TREEM: Yes, indeed, that's correct.

16           THE COURT: Not a bad place to get lot, either.

17           MR. TREEM: You're absolutely right about that, Your  
18 Honor. But it is easy, and it could be done, and you know Miss  
19 Taylor hasn't done that.

20           And there's no reason to expect that she will.

21           Remember, I mean, she came here 30 years ago. She  
22 chose to come here. She chose to become a citizen. She chose  
23 to establish a career. She chose to go to school. She chose  
24 to raise her kids here, which she's done.

25           Her life is here. Her job is here her passion's

1 here. Her community's here. There is really no reason under  
2 all these circumstances for her to receive anything other than  
3 probation, Your Honor.

4 I think I'm done.

5 THE COURT: Okay. Do you wish for me to hear from  
6 any other people that have traveled here for this?

7 MR. TREEM: I think -- I don't know. Would any of  
8 you like to address His Honor? Okay.

9 THE COURT: All right. Come on up, ma'am, stand up.

10 MR. TREEM: Would you like her are to come forward?

11 THE COURT: Inside the well. I find it's appropriate  
12 to allow people who have traveled and taken the time to come  
13 for the sentencing if the Judge wanted to hear from them.

14 MR. TREEM: I certainly do appreciate that, Your  
15 Honor.

16 THE COURT: Sure.

17 MR. TREEM: Thank you for in opportunity.

18 THE COURT: Welcome.

19 MR. TREEM: Just identify yourself.

20 THE COURT: Please, ma'am, could you state your name  
21 for the record for me?

22 MS. HOLDER: Good morning, Judge Russell. My name is  
23 Patricia Holder, the sister of Miss Taylor. I'm writing you on  
24 behalf of my sister Yvonne Taylor. She is scheduled for  
25 sentencing hearing before you on June 21st, 2013.

1           I have been employed as a correctional officer for  
2   over 22 years. My sister Yvonne Taylor is very hard-working  
3   and individual and has arrived here in America in 1982. My  
4   have sister has always worked. Most times, she's working two  
5   jobs. My sister went to nursing school to become an LPN and  
6   has continued to go to school so she can --

7           THE COURT: Miss holder, let me stop you. I don't  
8   mean to interrupt you. I've already read your letter. I've  
9   read it. I mean, and I have it in front of me now. But if  
10   there's anything else. You don't need to read from the letter.  
11   Why don't you tell me what you'd like to say.

12          THE WITNESS: Judge, if you could find in your heart  
13   to sentence my sister to probation and not jail time, I think  
14   she's learned her lesson, and I'll monitor her and make sure  
15   she won't make the same mistake again, Judge.

16          THE COURT: Okay. Thank you.

17          Mr. Treem, would your client like to allocute?

18          MR. TREEM: Yes, Your Honor. In fact, two requests.  
19   One is that Miss Taylor has written something out that she'd  
20   like to read, rather than kind of stumbling through it. And  
21   it's a letter that she would like to read to Your Honor, and I  
22   would ask that it be filed subsequent to her reading it, number  
23   one.

24          And number two, could she sit at the table to --

25          THE COURT: Yes.

1                   MR. TREEM: Thank you, Your Honor.

2                   THE DEFENDANT: Your Honor, I want to let you know  
3 the person that I really am. I first want to say my action on  
4 May 27, 2013 was a grave mistake, one of which I will never  
5 forget.

6                   This mistake has forever changed my life. And I'm a  
7 baptized and a church member. And I know right from wrong only  
8 I didn't exhibit my sense of the strong moral honest law  
9 abiding conviction which has been instilled in me since my  
10 childhood.

11                  Judge Russell, I'm one of the most hard-working  
12 persons around. I'm always willing to work to achieve my  
13 goals.

14                  I purchased my home as a single parent five years  
15 after I'd been in America. As a nurse, I made excellent  
16 income, and I've always worked two jobs.

17                  I'm a kind, caring, and giving person. I have  
18 volunteered at shelter for the homeless on most major holidays.  
19 I also voluntary at a nursing home.

20                  I'm very family oriented. And I am one of the bonds  
21 of my family. Everyone comes to me for advice, co-workers and  
22 family.

23                  I encourage all my grandchildren, nieces and nephews  
24 to make school their biggest priority.

25                  I also volunteer in a shelter for troubled teens

1 whenever I go to Jamaica.

2 I'm also responsible for the care of my ailing mother  
3 and aunt.

4 Judge Russell, I can assure you, I have regretted my  
5 action, and I have learned several harsh lessons since. My  
6 nursing license is in jeopardy due to this conviction.

7 I love nursing. And I love to work in the nursing  
8 home with the elderly. And this is something I passionately  
9 love doing.

10 I bring used clothing items from friends and family  
11 to the elderly who have no family members. I have anyone who  
12 needs help to complete forms to providing words of wisdom and  
13 support in difficult situations.

14 I recently helped a retired co-worker to apply for  
15 his Medicare and Social Security benefits. He cried and told  
16 me he's been trying to get one of his children to help him. He  
17 offered me money, which I refused and told him I was happy to  
18 help him.

19 Judge, I actually believe my suffering as a result of  
20 my action has been very extensive. I have lost credibility in  
21 the public eye, and this I believe is not the person that I  
22 truly am.

23 I feel like I let my family down, especially my  
24 mother. As a child, we were -- as a child, if we brought home  
25 an item as small as an eraser that did not belong to us, as

1 children, we were punished, and we would have to bring back the  
2 eraser the same day to the person and apologize for our action.

3 I have withheld this conviction from all of my  
4 grandchildren, as I constantly tell them about being honest,  
5 decent human beings.

6 My husband has told everyone in our community about  
7 my conviction. Judge Russell, I will eventually have to move  
8 out of my community as none of my neighbors speaks to me. I  
9 have lived in this community for over 20 years.

10 I recently got a job at the a home in Washington,  
11 D.C. and has been awaiting my nursing license for six weeks as  
12 their -- it's on the board review due to my felony conviction.  
13 There's no guarantee that I will get this license.

14 Judge Russell, I plead with you to give me probation.  
15 I will be forever grateful for this as it will allow me to  
16 continue the two classes I'm currently enrolled in at the  
17 Community College online. Both classes end August 9.

18 If I do not get my -- if I get my license, I will be  
19 able to start working with the elderly again.

20 Your Honor, thank you for considering my request.  
21 Thank you very much.

22 THE COURT: Thank you.

23 MR. TREEM: Your Honor, just for the record, I'd like  
24 to submit a copy of the letter that Miss Taylor just read, and  
25 also --

1 THE COURT: Yes.

2 MR. TREEM: There is one other document, I think  
3 there was a reference in the presentence report that the  
4 probation officer was unable to verify payments with the Pratt  
5 Community College online, some evidence of the payment office  
6 of payments that Miss Taylor has made, so I'd just like to  
7 submit that as well.

8 THE COURT: Do you want to submit that to Miss  
9 Martin?

10 MR. TREEM: I can do that, Your Honor.

11 THE COURT: Why don't you submit it to Miss Martin.  
12 And to the extent -- I will just ask Miss Martin to the extent  
13 that it does verify, at least note it in your report.

14 MS. MARTIN: Certainly.

15 THE COURT: And you can mark that as defense 1 to the  
16 sentencing memorandum, and I will go ahead and accept it.

17 THE CLERK: You can file it electronically.

18 MR. TREEM: That's fine. Okay.

19 THE COURT: That's fine. Thank you very.

20 All right. Applying Section 3553(a) factors in this  
21 case, looking at the history and characteristics of this  
22 defendant, this defendant presents as a well-spoken,  
23 well-educated, 55-year old woman, who has had no contact with  
24 the criminal justice system prior to this incident.

25 She presents as being in poor health. But

1       nevertheless, well-spoken.

2               Miss Taylor was a healer, an educator, and has as  
3       indicated by her well thought-out remarks, was passionate about  
4       what she did. However, she made a terrible mistake.

5               The nature and circumstances of the offense are  
6       serious. This country certainly does have an interest in  
7       safeguarding its currency. There is no evidence that was  
8       presented to the Court, at least from Miss Taylor, as to the  
9       source of proceeds, but it certainly was an extraordinarily  
10      large amount of money, which she knowingly transported and did  
11      not report.

12              This offense has now cost her significantly. It will  
13      cost her her license to do what she wants to do. It cost  
14      potential people who she will help because she can't do it  
15      anymore, and apparently she was very good at it.

16              I do, however, believe that her words show extreme  
17      remorse. I think she regrets. I think Miss Taylor, you regret  
18      what you did.

19              It was silly. It was reckless. It was  
20      irresponsible. And unfortunately, it's cost you a great deal.  
21      It's cost you your health. It's cost your familial  
22      relationships, although the bonds with your family, especially  
23      your sister back there, are broken. She's hurt.

24              Your other family members are hurt. You may not see  
25      them here because your back is to them, but they're hurt.

1       They're hurting.

2                   And they're mortified to have to be here right now.  
3       I'm certain your sister can't imagine that she would be sitting  
4       in a Federal Court watching you get sentenced.

5                   But nevertheless, we're here. I do believe that you  
6       will be deterred by your conduct regardless of the sentence  
7       that I impose.

8                   I don't believe that the public has a need to be  
9       protected from you, so to speak, and I do believe I want to  
10      impose a sentence that I would hope to get the treatment, the  
11      psychological treatment and mental health treatment that is  
12      recommended that you need.

13                  The advisory guidelines are 10 to 16 months in prison  
14      in this case. There is a recommendation of a split sentence,  
15      five months incarceration, five months of home detention in  
16      this matter.

17                  The sentence is sufficient but not greater than  
18      necessary to comply with the purposes of 18 United States Code,  
19      Section 3553(a) is in this Court's judgment is five years  
20      probation.

21                  I want, as a special condition that's going to be,  
22      I'm going to impose mental health treatment during the course  
23      of the probationary period of time as needed and as indicated.  
24      You're going to surrender your passport to the probation  
25      office.

1           You are restricted to travel only in Maryland,  
2   Virginia, and Washington D.C., as excepted with permission of  
3   probation. You're not to travel outside of the country without  
4   a specific court order to do so. Which, I will tell you, Miss  
5   Taylor, will not summarily be granted.

6           Which will not summarily be granted.

7           I understand the financial hardship that you are  
8   currently under, but I also understand you got tremendous  
9   potential to rebound as well. You're not destitute. You're  
10   not homeless. I am going to impose a fine of \$3,000. That is  
11   at the low of the guideline range, and I think based upon your  
12   assets and resources and your current ability to pay, I think  
13   that you can.

14           It will be paid over the course of the probationary  
15   period of time.

16           The restitution is not an issue here, but I am going  
17   to order that it was \$102,000, or precisely, approximately  
18   \$102,000, Mr. Cunningham? Is that correct, Mr. Cunningham?

19           MR. CUNNINGHAM: Yes, Your Honor, if you'll bear with  
20   me one second.

21           THE COURT: I believe it's outlined in the  
22   presentence report, but the amount of money that was recovered  
23   from Miss Taylor at BWI Airport will be forfeited. So whatever  
24   that precise amount is.

25           MR. TREEM: Actually, Your Honor, just for the

1 record, it was recovered in Atlanta.

2 THE COURT: Atlanta. You're absolutely right, thank  
3 you, Mr. Treem.

4 What was the precise amount, Mr. Cunningham, do you  
5 have it handy?

6 MR. CUNNINGHAM: I was looking at the consent order  
7 of forfeiture, I thought it was specified in there, but you're  
8 absolutely right that it's \$102,195, Your Honor.

9 THE COURT: Will be forfeited. I am going to impose  
10 a special assessment of \$100 in this case.

11 Although the sentence does not fall within the  
12 guideline range, I do believe nonetheless it's appropriate in  
13 light of the Court its findings under 3553(a) and that  
14 statute's purposes.

15 There are no counts to be dismissed in this case.

16 Miss Taylor, you have 14 days to file notice of  
17 appeal in this matter.

18 Yes, Mr. Cunningham?

19 MR. CUNNINGHAM: Your Honor, I stand, and I  
20 apologize, because I come without an oral -- excuse me, without  
21 a written motion to dismiss, but there is -- there was the  
22 government made the plea was guilty and if it was accepted by  
23 the Court the sentence was imposed, we would move to dismiss  
24 the indictment, which was returned, and that was in case GLR  
25 11-0310. There was a one-count indictment for violation of 31

1 USC 5332.

2 THE COURT: Okay.

3 MR. CUNNINGHAM: Which I am in fact moving at this  
4 time to dismiss.

5 THE COURT: All right. I will go ahead and grant  
6 that. Mr. Cunningham, do you think you can make a paper filing  
7 this morning?

8 MR. CUNNINGHAM: Yes, Your Honor.

9 THE COURT: Before the end of the day?

10 MR. CUNNINGHAM: Yes.

11 THE COURT: But I am going to go ahead and grant that  
12 oral motion.

13 She has 14 days.

14 Miss Taylor, you've got 14 days to file an appeal if  
15 you feel your guilty plea was somehow unlawful or involuntary  
16 or if there's some other fundamental defect in the proceeding  
17 that was not waived by your guilty plea.

18 You also may appeal your sentence if you believe your  
19 sentence is unlawful in this case. But I will go ahead and  
20 prepare a judgment order in this case, judgment and commitment  
21 order. Statement of reasons are also going to be prepared on  
22 these documents, as well as any other appropriate records  
23 related to the sentencing will be filed with the United States  
24 Sentencing Commission and the United States Bureau of Prisons  
25 in this case.

1           Mr. Treem, is there anything else?

2           MR. TREEM: Actually there is, Your Honor. We would  
3 ask that -- let me preface this by saying as the Court will  
4 recall, this was a conditional plea. Miss Taylor intends to  
5 file notice of appeal to kind of tee up the suppression issue  
6 that is going to be appealed.

7           And so we would move under rule 38(d) of the Federal  
8 Rules of Criminal Procedure -- oh. (c) and (d), I'm sorry,  
9 that the execution of the sentence that is the term of  
10 probation and the fine be stayed pending the appeal.

11           It is discretionary with the Court. The Court may do  
12 that, as I understand the rule. And if the Court grants the  
13 motion, then the Court, of course, can impose conditions of  
14 release pending the appeal.

15           But we will --

16           THE COURT: Is that something -- if that's what you  
17 want to do, because it's going to -- if you're not successful  
18 on appeal and I impose conditions similar to the probationary  
19 conditions, then you add to the probation.

20           MR. TREEM: Well, let me do this, Your Honor --

21           THE COURT: I'm not --

22           MR. TREEM: I hear you.

23           THE COURT: Your client's not going to prison.

24           MR. TREEM: I understand. I understand. So let me  
25 do it this way. We may file a motion under Rule 38, and if we

1 do, we will file it today in writing.

2 THE COURT: Okay.

3 MR. TREEM: And explain what we're looking for and  
4 why we want it.

5 THE COURT: Because, well, and you may file a motion,  
6 but the Court may be inclined to impose similar conditions  
7 regarding travel restrictions and work restrictions.

8 MR. TREEM: I understand that, Your Honor. That's  
9 what we want to discuss with Miss Taylor.

10 THE COURT: Right. Okay.

11 MR. TREEM: To see whether it's makes any difference  
12 at all.

13 MR. CUNNINGHAM: It almost seems irrespective of what  
14 might be under Rule 38, there are existing conditions that are  
15 imposed that would continue in any event.

16 THE COURT: Right. And then we end up six months  
17 from now having -- if the conviction is affirmed, having five  
18 and a half years of almost probationary condition.

19 Okay. If you decide to file it, you go ahead and  
20 file it. We madetend to it with a hearing or without.

21 MR. TREEM: I think --

22 THE CLERK: I'm sorry, Your Honor. Are you scheduling  
23 any payments for the fine?

24 THE COURT: Right. Here's what I'll do. As far as  
25 the fine is concerned, the fine will be set out over the period

1 of the probation. So, in other words, it will be equally  
2 divided in payments over the period of probation.

3 MR. TREEM: Okay.

4 THE COURT: Monthly payments over the period of  
5 probation. So \$3,000 over 60 months to be paid monthly.

6 MR. TREEM: Sounds like 200 a month or something. I  
7 wasn't a math major. I became a lawyer.

8 THE COURT: Neither was I, but my expectation is the  
9 fine would not be paid in one lump sum within 30 days. The  
10 fine is to be paid in equal monthly payments over the course of  
11 the probation, the five years probation.

12 MR. TREEM: That's fine, thank you.

13 THE COURT: Okay. Is there anything else, Mr. Treem?

14 MR. TREEM: I don't think so, Your Honor. Thank you.

15 THE COURT: Mr. Cunningham?

16 MR. CUNNINGHAM: No, Your Honor.

17 THE COURT: Okay. Thank you very much.

18 Miss Taylor, Mr. Hamm, have a safe trip back home.

19 (Proceedings adjourned)

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1 I, Jacqueline Sovich, RPR, CM, do hereby certify  
2 that the foregoing is a correct transcript from the  
3 stenographic record of proceedings in the above-entitled  
4 matter.

5 \_\_\_\_\_  
6 Jacqueline Sovich  
7 Official Court Reporter

DATE